

REMARKS

Applicant requests that the records of the Patent Office be updated to reflect the Agent's revised reference for the application, namely: 123081-339669 (T01215-0042US).

In the Office Action of July 13, 2006, Examiner considered claims 1, 3-9 and 12-22. The Examiner rejected claims 1, 3-9, 12-16, 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2002/0176370 to Ohba et al. ("Ohba") in view of U.S. Patent No. 6,434,112 to Kwon ("Kwon"). Examiner indicated that claims 17-20 would be allowable if rewritten in independent form including all elements of all intervening dependencies. Examiner objected to Claim 1 for lacking an appropriate antecedent for "said path". Examiner removed the "final" status of the Action in view of Applicant's filing of a Request for Continued Examination.

Applicant traverses all objections and rejections as follows.

Claims 3-5, 7, 9, 12-16, 18-30 are provided herein. Former claims 1, 2, 6, 8, 10, 11 and 17 are cancelled. New claims 23-30 are added, including two independent claims. There are 23 claims in total, including 3 independent claims.

Independent Claim 12 is amended to include all aspects of allowable claim 17. Claim 17 is cancelled. Claim 18 is amended to depend from Claim 12. Claims 19 to 22 are as previously presented. In view of the amendments to claim 12, Applicant submits claims 12-16 and 18-22 are allowable.

New independent claim 23 defines a method of setting a timing interval between attempts to establish a label switched path (LSP) between an ingress and an egress node. In the method a unique identification for an LSP is provided and a signalling link is established between the nodes; then, at the ingress node the link is monitored to detect whether the LSP has been established. A new attempt to establish the LSP is initiated after a retry time if the ingress node did not receive a message indicating that said LSP has been established. Subsequent attempts to establish the LSP may be made, but longer retry time interval(s) may be used. Claims 3, 4, 5, 7 and 9 are amended to directly and indirectly depend from new claim 23. Also, new claims 24-26 depend from claim 23.

New independent claims 27 defines a method of establishing an LSP in a network by maintaining a list of records including all said LSPs, selecting a record for a particular LSP to be established, and establishing a first signalling link between a node associated with the record and an egress node for that LSP, monitoring at the node for messages indicating that that LSP has been established; and if that LSP has been established, marking the record as being successful. New claims 28 to 30 depend from claim 27.

It is submitted that the new claims are not obvious and are novel in view of both Ohba and Kwon and the other art cited to date. For the a rejection based on obvious to be sustained, per MPEP 706.02(j), the factors of *prima facie* obviousness require that there is (i) motivation to combine the references, (ii) a reasonable expectation of success, and (iii) a teaching of all claim limitations by the combined references. It is submitted that none of these factors are provided in the combination of Ohba and Kwon.

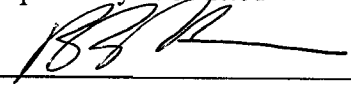
Ohba is understood to describe label switched path loop detection methods at nodes of a communication network. As part of its loop detection, Ohba describes the re-transmission of label allocation messages after a prescribed period of time has elapsed, which is not the same as Applicant's claimed "back-off" delay intervals. Meanwhile Kwon is simply directed to a frame transmission method for a local area network, such as an Ethernet network. Kwon is not directed to a method or system of establishing a label switched path or setting the timing interval(s) between attempts to establish a LSP, per the new claims. In Kwon, when a transmission of a frame is detected, a next retransmission effort is made after an interval which is double the time of the previous interval.

As Kwon is directed to transmission efforts and Ohba is directed to detection of loops in LSPs, Ohba and Kwon occupy different fields of art. Further neither are specifically directed towards methods of establishing LSPs or timing attempts to establish LSPs. Examiner cited no passage in either Ohba or Kwon to combine their teachings. Based on the differing fields, there is no motivation to combine Ohba with Kwon. Since none of the factors of *prima facie* obviousness is made out by Ohba or Kwon, whether taken alone or in combination, Applicant respectfully submits that the claims provided herein are new and non-obvious in view of the prior art cited to date.

No new subject matter is added with the present amendments. Exemplary support for the new claims is provided in the specification at paragraphs [0092] to [0104].

Applicant believes that the excess claim fees payable for the set of claims provided herein are for 3 claims over 20 (3 x \$50), namely \$150. Commissioner is authorized to charge all excess claim fees to Agent's account 15-0633.

In view of the above, Applicant respectfully submits that all rejections in the Action of July 13, 2006 are traversed, and that the application is in condition for allowance. Examiner is invited to contact the undersigned to discuss this matter further, if necessary.

<u>October 13, 2006</u> Date	<p>Respectfully submitted</p>  <hr/> <p>Robert H. Nakano (Registration No. 46,498)</p> <p>McCarthy Tétrault LLP Box 48, Toronto Dominion Bank Tower Suite 4700, 66 Wellington Street West Toronto, Ontario M5K 1E6 Canada</p> <p>Telephone: (416) 601-7852 Facsimile: (416) 868-0673</p>
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